



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,760	05/31/2001	Sean M. McCullough	VIGN1260-1	6413

25094 7590 01/04/2005

DLA PIPER RUDNICK GRAY CARY USA, LLP
2000 University Avenue
E. Palo Alto, CA 94303-2248

EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,760

Applicant(s)

MCCULLOUGH, SEAN M.

Examiner

Ashok B. Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Application Number 09/681, 760 was filed on 05/31/2001. Claims 1-22 are subject to examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Specification

3. Claim 22 objected to because of the following informalities: Claim 22 is presented as being dependent upon claim 2. However, it seems it is intended to be dependent upon claim 11 since its limitations include data processing system readable medium. Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Parekh et al. (hereafter Parekh) (US 6, 757, 740)

Referring to claim 1,

Art Unit: 2154

The reference teaches a method of profiling a user (Fig. 13) comprising:

accessing first data (col. 15, lines 61-64) including a first identifier for the user, network addresses accessed by the user, and temporal information related to the user identifier and the network addresses (col.15, lines 65 through col.16, line 1), wherein the first data is determined at a location remote from the user (col.16, lines 1-6, lines 8-15);

accessing second data including at least some of the network addresses and corresponding category information for each of the at least some of the network addresses (col.16, line 6-8); and

generating a user profile based at least in part on the first identifier, corresponding category information, and at least some of the temporal information (col.15, lines 65 through col.16, line 1, col.16, lines 24-28, Note:” This profile is stored as a series of preferences for or against predetermined categories.)

Referring to claim 2,

The reference teaches the method of claim 1, wherein generating the user profile comprises:

creating a table that includes a first column for user identifiers including the first identifier, a second column for the corresponding category information, and a third column for the at least some of the temporal information ((col.15, lines 65 through col.16, line 1, col.16, lines 1-28);

comparing data for the user (col. 16. lines 46-48, “Again though, the server 80 looks in the geography database 84A and determines that he is from Atlanta, Ga.)

Art Unit: 2154

within the table to existing profiles including a first profile, and associating the user with the first profile. (col.16, lines 46-57)

Referring to claim 3,

The reference teaches the method of claim 1, further comprising matching the network addresses that are common to the first and second data. (col.15, lines 65 through col.16, line 1, col.16, lines 24-28, Note: "This profile is stored as a series of preferences for or against predetermined categories.")

Referring to claim 4,

The reference teaches the method of claim 1, further comprising:

selecting a first marketing information regarding an item, wherein selecting is based at least in part on the user profile; and

sending the first marketing information to the user (col.16, lines 46-57).

Referring to claim 5,

The reference teaches the method of claim 4, wherein:

selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view (col. 3, lines 36-41, "The web sites can selectively deliver content or advertising based on the geographic location of its visitors. The geographic location information can also be used in the routing of Internet traffic. A traffic manager associated with a number of web servers detects the geographic locations of its Internet visitors and routes the traffic to the closest server.")

Referring to claim 6,

Art Unit: 2154

The reference teaches the method of claim 4, wherein:

at least one of the network addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item. (col.16, lines 29-65)

Referring to claim 7,

The reference teaches the method of claim 4, wherein:

selecting comprises selecting the first marketing information and a second marketing information; and

the method further comprises applying a filter, wherein:
the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending. (col.16, lines 29-65)

Referring to claim 7,

The reference teaches the method of claim 1, further comprising selling the user profile. (col.14, lines 22-26, "The geographic information can also be analyzed to effectively market the site to potential Internet site advertisers and external content providers or to provide media-rich content to users that have sufficient bandwidth.", note: This implies that the user profiles are sellable.)

Referring to claim 9,

The reference teaches the method of claim 1, wherein:

accessing the second data comprises accessing the corresponding category information from a third-party source (Fig. 13, element 60) e; and

the corresponding category information includes meta tags for the network addresses (col.15, lines 61 through col. 16, line 1,"In g ral, the profile server 80 and profile discovery server 90 gather information about specific IP addresses based upon the Internet users' interactions with the various web sites 60 and other requestors 40. This information includes, but is not limited to, the types of web sites 60 visited, pages hit such as sports sites, auction sites, news sites, e-commerce sites, geographic information, bandwidth information, and time spent at the web site 60.")

Referring to claim 10,

Claim 10 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 1. Therefore, claim 10 is rejected for the reasons set forth in above paragraph for claim 1.

Referring to claim 11,

Claim 11 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 2. Therefore, claim 11 is rejected for the reasons set forth in above paragraph for claim 2.

Referring to claim 12,

Claim 12 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 3. Therefore, claim 12 is rejected for the reasons set forth in above paragraph for claim 3.

Referring to claim 13,

Claim 13 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 4. Therefore, claim 13 is rejected for the reasons set forth in above paragraph for claim 4.

Referring to claim 14,

Claim 14 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 5. Therefore, claim 14 is rejected for the reasons set forth in above paragraph for claim 5.

Referring to claim 15,

Claim 15 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 6. Therefore, claim 15 is rejected for the reasons set forth in above paragraph for claim 6.

Referring to claim 16,

Claim 16 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 7. Therefore, claim 16 is rejected for the reasons set forth in above paragraph for claim 7.

Referring to claim 17,

Art Unit: 2154

Claim 17 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 8. Therefore, claim 17 is rejected for the reasons set forth in above paragraph for claim 8.

Referring to claim 18,

Claim 18 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 9. Therefore, claim 18 is rejected for the reasons set forth in above paragraph for claim 9.

Referring to claims 19 and 20,

The reference teaches the method of claim 2, wherein comparing data for the user within the table to existing profiles includes performing click stream analysis, and wherein comparing data for the user within the table to existing profiles includes:

applying data mining rules to the data for the user to determine characteristics of the user; and comparing the characteristics of the user to characteristics included in the existing profiles. (col.15, lines 61 through col. 16, line 1,"In general, the profile server 80 and profile discovery server 90 gather information about specific IP addresses based upon the Internet users' interactions with the various web sites 60 and other requestors 40. This information includes, but is not limited to, the types of web sites 60 visited, pages hit such as sports sites, auction sites, news sites, e-commerce sites, geographic information, bandwidth information, and time spent at the web site 60.", col.16, lines 29-

Art Unit: 2154

57, Note: As it is known, data mining actually discovers useful patterns and relationships within data.)

Referring to claim 21,

Claim 21 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 19. Therefore, claim 21 is rejected for the reasons set forth in above paragraph for claim 19.

Referring to claim 22,

Claim 22 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 20. Therefore, claim 22 is rejected for the reasons set forth in above paragraph for claim 20.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.


Art Unit: 2154

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp

 JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100